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9 CARSON CITY, JASON BUENO, SEAN PALAMAR, TYSON LEAGUE,
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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 DREW J. RIBAR,

14 Plaintiff,

15 vs.

16 STATE OF NEVADA EX. REL. NEVADA
17 DEPARTMENT OF CORRECTIONS,
18 CARSON CITY AND ITS SHERIFFS
19 OFFICE, CARSON CITY DISTRICT
20 ATTORNEYS OFFICE, CARSON CITY
21 MANAGERS OFFICE, FERNANDEIS
22 FRAZAIER IN HIS OFFICIAL CAPACITY
23 AS WARDEN OF NORTHERN NEVADA
24 CORRECTIONAL, AARON RYDER IN HIS
25 OFFICIAL CAPACITY AS AN OFFICER OF
26 NEVADA DEPARTMENT OF
27 CORRECTIONS, ROBERT SMITH IN HIS
28 OFFICIAL CAPACITY AS AN OFFICER OF
NEVADA DEPARTMENT OF
CORRECTIONS, JASON BUENO IN HIS
OFFICIAL CAPACITY AS AN OFFICER OF
CARSON CITY SHERIFF, SEAN
PALAMAR RYDER IN HIS OFFICIAL
CAPACITY AS AN OFFICER OF CARSON
CITY SHERIFF, TYSON DARIN LEAGUE
RYDER IN HIS OFFICIAL CAPACITY AS
AN OFFICER OF CARSON CITY DISTRICT
ATTORNEY, JAMES DZURENDA
(DIRECTOR NEVADA DEPARTMENT OF
CORRECTIONS), JASON D. WOODBURY
(CARSON CITY DISTRICT ATTORNEY),
KENNETH T. FURLONG IN HIS
CAPACITY AS SHERIFF CARSON CITY,
NV, OFFICER/DEPUTY/J. DOE 1-99,

Defendants.

Case No. 3:24-cv-00103-ART-CLB

**DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR LEAVE TO
FILE SUR-REPLY TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
[ECF 33]**

1 COME NOW Defendants CARSON CITY, JASON BUENO, SEAN PALAMAR,
2 TYSON LEAGUE, JASON WOODBURY, and KENNETH FURLONG, by and through their
3 attorneys, Thorndal Armstrong, PC, and hereby submit their opposition to Plaintiff's Motion for
4 Leave to File a Sur-Reply with respect to the Defendants' Motion for Summary Judgment.
5 There are no grounds whatsoever for the request made by Plaintiff in this regard and his motion
6 should be denied.

7 This case arises out of the arrest of Plaintiff Drew Ribar by Deputy Jason Bueno on
8 August 30, 2022. Pursuant to the Court's scheduling order, discovery in the case closed on
9 September 9, 2024, and the dispositive motion deadline was set for October 9, 2024 [ECF 13].

10 On October 9, 2024, Defendants filed their Motion for Summary Judgment with the
11 Court [ECF 29]. In same, Defendants seek summary judgment of all of the Plaintiff's claims and
12 have asked the Court to dismiss Plaintiff's Complaint and grant judgment in their favor as a
13 matter of law in accordance with FRCP 56. On October 30, 2024, Plaintiff filed an opposition to
14 the motion [ECF 32]. The following day, on October 31, 2024, the Plaintiff filed a document
15 [ECF 33] in which he requested leave of Court to file a "sur-reply" to the Defendants' Motion
16 for Summary Judgment. On November 13, 2024, the Defendants filed their reply in support of
17 their Motion for Summary Judgment [ECF 35]. In other words, Plaintiff requested leave of
18 Court to file a surreply *before* the Defendants' reply brief was even filed. Plaintiff's actions in
19 doing so appear intended to simply allow him to have the last bite at the apple with respect to the
20 Defendants' dispositive motion and there are no legitimate grounds for Plaintiff's request.

21 Pursuant to LR 7-2(b), surreplies are not permitted without leave of Court and motions
22 for leave to file a surreply are discouraged. *If* a party raises a new argument or presents new
23 evidence in a reply brief, the Court may consider these matters only if the adverse party is given
24 an opportunity to respond. *See, El Pollo Loco v. Hashim*, 316 F.3d 1032, 1040-1041 (9th Cir.
25 2003). In such circumstances, the Courts have entertained litigants' motions for leave to file a
26 surreply. As recognized by this Court, "[b]ecause surreplies are discouraged, '[o]nly the most
27 exceptional or extraordinary circumstances warrant permitting a surreply to be filed.'" *Tesla,*
28 *Inc. v. Tripp*, 487 F.Supp.3d 593, 969 (D. Nev. 2020)(internal citation omitted). This Court has

1 further stated that the “[f]iling of surreplies is highly disfavored, as it typically constitutes a
2 party’s improper attempt to have the last word on an issue.” *Stevens v. Prentice*, No. 2:17-CV-
3 970 JCM (PAL), 2018 WL 3758577 (D. Nev. 2018).

4 Plaintiff’s perceived justification for asking the Court for leave to file a surreply is to
5 allow him to address alleged “inaccuracies” in the declaration of Jason Bueno submitted as an
6 exhibit to Defendants’ Motion for Summary Judgment and/or to address the “duration” of time
7 Plaintiff was detained in the back of Deputy Bueno’s vehicle on the day of his arrest. Plaintiff
8 offers nothing in the way of explanation as to how or why he was unable to address these issues
9 in his opposition to the Defendants’ motion and, in fact, Plaintiff did comment upon these issues
10 in his opposition.

11 There are no grounds whatsoever to allow Plaintiff leave to file a surreply in this case.
12 To the extent Plaintiff wished to offer evidence or argument in opposition to the issues raised in
13 Defendants’ Motion for Summary Judgment, he had every opportunity to do so. That the
14 Plaintiff filed a motion for leave to file a surreply *before* the Defendants even filed their reply
15 brief makes it abundantly clear that Plaintiff is simply seeking the last words on the issues raised
16 in Defendants’ dispositive motion. His motion is procedurally improper, wholly lacking in
17 merit, and should be denied.

18 DATED this 13th day of November, 2024.

19 THORNDAL ARMSTRONG, PC

20
21 By: /s/ Katherine Parks
22 KATHERINE F. PARKS, ESQ.
23 Nevada Bar No. 6227
24 6590 S. McCarran Blvd., Suite B
25 Reno, Nevada 89509
26 Attorney for Defendants
27 CARSON CITY, JASON BUENO, SEAN
28 PALAMAR, TYSON LEAGUE, JASON
WOODBURY, and KENNETH FURLONG

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of Thorndal Armstrong, PC, and that on this date I caused the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-REPLY TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT [ECF 33]** to be served on all parties to this action by:

 X placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.

 United States District Court CM/ECF Electronic Filing Process

 hand delivery

 electronic means (fax, electronic mail, etc.)

 Federal Express/UPS or other overnight delivery

fully addressed as follows:

Drew J. Ribar
3480 Pershing Ln
Washoe Valley, NV 89704
Pro Se Plaintiff

DATED this 13th day of November, 2024.

 /s/ Laura Bautista
An employee of Thorndal Armstrong, PC